

Message Text

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ACTION EA-14

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E. O. 11652: N/A

TAGS: PINT KS

SUBJECT: KIM TAE-CHUNG CASE

REF: SEOUL 3600

1. FOLLOWING DETAILS REGARDING ROK JUDICIAL PROCESS
AND TRIAL OF KIM TAE-CHUNG ARE PROVIDED FOR DEPARTMENT'S
BACKGROUND.

2. KIM TAE CHUNG IS CURRENTLY INVOLVED IN A "TRIAL"
PROCEEDING, NOT SIMPLY A "HEARING". JUDICIAL PROCESS
FOR A KOREAN CRIMINAL CASE IS DIVIDED INTO THE
FOLLOWING STAGES:

A. OPENING STAGE WHICH INCLUDES PRESENTATION
OF CHARGES AND DEFENDANT'S ANSWERS AND PRESENTATION
OF EVIDENCE;

B. PROSECUTOR'S SUMMATION AND DEMAND FOR
PUNISHMENT:

C. DEFENSE SUMMATION;
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D. PRONOUNCEMENT OF SENTENCE.

IN DISCRIBING KIM CASE, EMBASSY HAS USED "TRIAL" TO REFER TO WHOLE PROCESS AND "HEARING" TO REFER TO STAGE A. FIRST STAGE, WHICH KIM CASE IS CURRENTLY IN, MAY EXTEND OVER MANY SESSIONS. STAGES B AND C TOGETHER USUALLY TAKE ONE SESSION AND SENTENCING OCCURS AT SEPARATE, FINAL SESSION.

3. GOVERNMENT CASE AGAINST KIM INCLUDES MORE THAN A DOZEN CHARGES ALL OF WHICH ARE UNDER LAWS GOVERNING NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS. MOST SERIOUS CHARGES ARE MAKING FALSE STATEMENTS, FOR WHICH MAXIMUM PENALTY IS FIVE YEARS CONFINEMENT AT HARD LABOR OR FINE OF 500,000 WON, AND DEFAMATION, WHICH IS AN OFFENSE EVEN IF STATEMENT IS TRUE AND WHICH ENTAILS PUNISHMENT OF THREE YEARS OR 300,000 WON FINE. OTHER OFFENSES WHICH INCLUDE PREMATURE CAMPAIGNING AND MAKING SPEECHES AFTER CURFEW ARE PUNISHABLE BY TWO YEARS OR 200,000 WON FINE.

4. CUSTOMARILY IF DEFENDANT IS FOUND GUILTY ON SEVERAL COUNTS OR MULTIPLE CHARGES JUDGE IMPOSES PENALTY NOT EXCEEDING MAXIMUM PRESCRIBED FOR THE SINGLE MOST SERIOUS OFFENSE. HOWEVER, THERE IS NO LEGAL BARRIER TO IMPOSING MULTIPLE SENTENCES TO BE SERVED CONSECUTIVELY.

5. JUDGE CAN CONVICT, ACQUIT, OR SUSPEND SENTENCE. BOTH DEFENDANT AND PROSECUTOR HAVE RIGHT OF APPEAL, FIRST TO APPELLATE COURT AND THEN SUPREME COURT.

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